



Practitioner's Docket No.: 791_065 CON

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of: Hiroshi Nemoto and Kenshin Kitoh

Ser. No.: 09/997,604

Group Art Unit: 1745

Filed: November 29, 2001

Examiner: Susy N Tsang-Foster

Confirmation No.: 5235

For: LITHIUM SECONDARY BATTERY

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Jed M. Stevens

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REQUEST FOR RECONSIDERATION

Sir:

The following is in response to the Office Action mailed September 3, 2003.

Claims 10-23 remain pending herein.

Claims 12 and 19 were rejected under 35 USC 112, first paragraph.

The Office Action contains statements to the effect that although the specification discloses batteries in which the primary particles of the positive electrode active material include particles having at least one side of each flat crystal face of length of 1 μ m or more, the specification does not provide support for a battery in which the primary particles of the positive electrode active material *all* have at least one side of each flat crystal face of length 1 μ m or more. It is respectfully noted that claims 12 and 19 do not recite that *all* of the primary particles of the positive electrode active material have at least one side of each flat crystal face of length of 1 μ m or more. Rather, claims 12 and 19 recite that the primary particles *consist essentially of* particles having at least one side of each flat crystal face of length of 1 μ m or more, meaning that the primary particles of the positive electrode active material can include non-conforming particles (i.e., particles which do not have at least one side of each flat crystal face of length of 1 μ m or more), so long as there are not so many of such non-conforming particles that the basic and novel characteristics of the present invention are materially affected. That is, as has been repeatedly and consistently held, the expression